IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 5-2-2007

Coram

The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

W.P.No.21411 of 2004
W.P.M.P.Nos.24998 of 2005 & 179 of 2007

M/s.Srinivasa I.T.I.,
re.by its Principal/Correspondent
S.Anbalagan
No.38, Nethaji Street,
Thoraipadi,
Vellore - 632 002. ... Petitioner

Vs.

1. Commissioner of Employment & Training,
Chepauk,
Chennai - 600 005.

2. Regional Joint Director of Training,
Govt. I.T.I.Women Campus,
Guindy,
Chennai - 600 032. ... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India, praying this Court to issue a writ of mandamus forbearing the respondents from interfering with the right of the students of the petitioner institute for the trade course of Electrician and Mechanical Motor Vehicle, admitted for the academic year 2002-2004 for the examination commencing on 23.7.2004.

For Petitioner : Mrs.G.Thilakavathy

For Respondent : Mr.V.Viswanathan,
Addl. Government Pleader

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O R D E R

By consent of the learned counsel for the petitioner as well as the respondents, the writ petition is taken up for final disposal.

2. Prayer in the writ petition is to issue a writ of mandamus forbearing the respondents from interfering with the rights of the students of the petitioner institute admitted in the trades of Electrician and Mechanical Motor Vehicle for the academic years 2002-2004 for the examination commencing on 23.7.2004.

3. Petitioner ITI was established in the year 1995-96 with due recognition and affiliation for Electrician Trade and Mechanical Motor Vehicle Trade. In August, 2003, the respondents, placing reliance on the inspection report, disaffiliated the petitioner institute and stated that no admission of students for the recognised trade courses of Electrician and Mechanical Motor Vehicle Trade should be made from the academic year 2003 onwards till the compliance of the deficiencies as noted in their inspection report.

4. The petitioner institute in strict compliance of the order of the second respondent not admitted students to the said Trades for the academic years 2003-2004. However continued the course for the students of the said trades, admitted in the previous academic year 2002-2004. After disaffiliation some of the students withdrew their admission and only six students underwent the second year course in the petitioner ITI i.e., two students in Electrician Trade and four students in Mechanical Motor Vehicle Trade. Examinations were scheduled to be conducted from 23.7.2004 and the petitioner ITI remitted examination fee and requested the respondents to issue hall tickets. However hall tickets were not issued and therefore this writ petition was filed.

5. Along with the writ petition, petitioner filed a direction petition to permit the students to sit for the examinations. This Court by order dated 23.7.2004 granted interim direction subject to the result of the writ petition. Therefore the students appeared for the examinations in July, 2004. Now the grievance of the petitioner is that the results of the said students are not published and therefore they are not able to get their Trade Certificates.

6. Respondents have filed counter affidavit wherein it is stated that due to the non-availability of infraustructural facilities, petitioner ITI was disaffiliated and the deficiency pointed out were also not complied with and therefore the petitioner ITI is not entitled to admit Trainees for the above Trades in the academic year from August, 2003 onwards.

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7. The learned counsel for the petitioner submits that admittedly the disaffiliation was with effect from August, 2003 and no student was admitted from August, 2003. All that the petitioner seeking is to permit the students, admitted during academic year 2002-2003, to continue their second year course in the petitioner ITI and complete their courses. Learned counsel also submitted that the disaffiliation order nowhere states that the students admitted already, who were undergoing the second year course should be admitted in any other institution and so long as the students were not directed to be transferred to any other institution, petitioner is entitled to continue the second year course for the said students since they were admitted during the period in which affiliation was granted. Hence according to the learned counsel, the petitioner is entitled to get the results of the students published for the examinations appeared, pursuant to the interim order of this Court dated 23.7.2004.

8. The learned counsel for the respondents submitted that the petitioner ITI having been disaffiliated from August, 2003, petitioner is not justified in conducting the second year course for the said students and the students ought to have joined in some other affiliated ITI and no indulgence can be shown to the students, who underwent their second year course in the disaffiliated ITI.

9. I have considered the rival submissions made by the learned counsel for the petitioner as well as the respondents in the light of the disaffiliation order.

10. It is not in dispute that the Electrician and Mechanical Motor Vehicle Trades were granted permanent affiliation to the petitioner ITI from the year 1993-1994 as per the proceedings of the Director of Employment and Training, Chepauk, Chennai-5, dated 20.7.1996. The disaffiliation order is with effect from August, 2003 and the said order nowhere states that the already admitted students should be transferred to any other ITI. The proceedings of the second respondent dated 14.7.2003 clearly states that the petitioner ITI shall not admit students from August, 2003. The said communication has not taken care of the students already admitted, who were undergoing second year course, when the disaffiliation order was passed.

11. Similar issue arose before the Honourable Supreme Court in the decision reported in (1987) 2 SCC 445 (Suresh Pal v. State of Haryana) wherein in para 3 it is held as follows,

> "3. We are of the view that since at the time when the petitioners joined the course, it was recognised by the Government of Haryana and it was on the basis of this recognition that the petitioners joined the course, it would be unjust to tell the petitioners now that though at the time of their joining the course it was recognized, yet they cannot be given the benefit of such recognition and the certificates obtained by them

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> would be futile, because (during the pendency of the course it was derecognized by the State Government on January 9, 1985. We would, therefore, allow the appeal and direct the State Government to recognize the certificates obtained by the petitioners and others similarly situate as a result of completing the certificate course in Shri Hanuman Vayayam Prasarak Mandal, Amravati for the purpose of appointment as Physical Training Instructor in government schools in Haryana. Of course, if any person has joined the certificate course after January 9, 1985 he would not be entitled to the benefit of this order and any certificate obtained by him from the said Institute would be of no avail. There will be no order as to costs of the appeal."

The said decision is followed by this Court in the decision reported in (1998) 2 MLJ 281 (Jhansi Rani v. The Secretary, The Director of Government Examinations).

12. Here in this case also, when the students were admitted during 2002, petitioner ITI was having permanent affiliation. The affiliation was withdrawn only in August, 2003 with a direction not to admit students thereafter. The already admitted students cannot be put to prejudice due to the disaffiliation, ordered subsequently issued. Further there is no direction to transfer the existing students of the petitioner ITI to any other ITI. Hence it is inequitable on the part of the respondents to deny publication of results to the students of the petitioner ITI, who appeared for the examinations pursuant to the interim orders of this Court.

13. Taking note of the admitted facts in this case, the writ petition is allowed with a direction to publish the results of the students of the petitioner ITI, who appeared for examinations in July, 2004 in the respective trades and issue their mark statements and certificates within a period of four weeks from the date of receipt of copy of this order. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

vr/

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To

1. The Commissioner of Employment & Training,
   Chepauk, Chennai - 600 005.

2. The Regional Joint Director of Training,
   Govt. I.T.I.Women Campus, Guindy, Chennai - 600 032.

+ 1 CC To Mr. G.Thilakavathi, Advocate SR NO. 6720

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